

Appl. No. 09/452,952
Amendment dated February 6, 2004
Reply to Office Action of November 6, 2003

Remarks

Claims 1-14 are pending in the application, with claims 1 and 14 being the independent claims.

Based on the present Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 1, 4-6, 10 and 12-14 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 5,600,368 to Matthews ("Matthews") in view of a NASCAR video game manual from Papyrus Design Group ("Papyrus").

Matthews teaches interactive viewer control of camera viewpoints placed in multiple positions in a sporting contest. All of the cameras are aimed at a player position or field area. The viewer must constantly switch camera position channels in order to follow a contest. (see Matthews, col. 4, lines 50-62). Matthews also discloses a directional keypad on a remote control handset which the viewer uses for switching between the different camera viewpoints.

The claimed invention is directed to a method for distributing video images of a racing event. Each of the participants in the event is provided with a video camera. Each of the cameras are provided with a respective transmitter for transmitting information regarding video images generated by the camera. Retransmission equipment is provided for receiving information transmitted by the transmitter and directing information regarding video images from each of the plurality of cameras to respective channels for remote viewing at viewers' locations. Channel selectors are provided to permit viewers to select from among the channels. The cameras are simultaneously operated during the event so as to generate a plurality of camera feeds during the event, with each feed reflecting a perspective of a respective participant. The plurality of feeds are transmitted to the retransmitting equipment, and the feeds are retransmitted to the channels, such that each of a plurality of viewers is allowed to select from a plurality of said channels to thus enable viewing of the event through the perspective of one or more participants of greatest interest to the particular viewer.

I. **Matthews and Papyrus fail to teach all of the features of claim 1.**

A. **Matthews fails to teach providing each of the participants with a video camera.**

Claim 1 recites "providing each of a plurality of participants in said event with a video camera." Claim 14 recites a similar element. On this point the Examiner states on page 2 of the Action: "Matthews discloses...the steps of providing a plurality of participants in said event with a video camera."

The Examiner's attention is respectfully directed to page 3 of the Opinion of the Board of Patent Appeals and Interferences mailed January 29, 2003, which states:

"On the one hand, the examiner appears to assert...that Matthews provides each of a plurality of participants in a sporting event with a video camera. **We find no such teaching or even a suggestion of providing each participant in a sporting event with his or her own video camera** which is selectively viewable by a viewer as required in each of independent claims 1 and 14." (emphasis added).

It is respectfully submitted that the Board made a finding on the record that Matthews fails to teach this feature, and that it is improper for the Examiner to cite Matthews for this purpose, directly disregarding the Board's Opinion.

Similarly, the Examiner states on page 3, lines 9-11 of the Action that Matthews discloses "each feed reflecting a perspective of a respective participant (see fig.2; note each camera from 42-48 reflect a different view of each different respective camera position)..."

As noted above, the Board made a finding that Matthews fails to teach this feature, and the Examiner should respect that finding.

B. **Papyrus fails to teach providing each of the participants with a video camera.**

The paragraph beginning on page 3 and continuing on page 4 of the Action states:

"Although Matthews may not appear to disclose the teaching of seeing perspectives of all participants, however Matthews suggests that the system can be

Appl. No. 09/452,952
Amendment dated February 6, 2004
Reply to Office Action of November 6, 2003

used in any sporting event...Also, the system disclosed by the applicant is reminiscent from the real NASCAR scene, which is simulated by NASCAR 95 (video game), where cameras are installed on race cars which give the perspective of the participants. Therefore, it would be obvious for one of ordinary skill in the art to place cameras at sporting event participants for obtaining video images so as to entertain and satisfy the viewing audience, as evidenced by NASCAR, NASCAR 95 (ie. video game)."

The Examiner is respectfully requested to clarify this rejection. It is not clear to the Applicant what the Examiner is arguing. Is the Examiner citing Papyrus as disclosing seeing the perspectives of all participants, or more broadly, citing Papyrus as disclosing providing views from the participant? Furthermore, is the Examiner citing "real NASCAR", which is "simulated" by the video game described in Papyrus, or is the Examiner actually citing Papyrus?

For the purposes of this response, it is assumed that the Examiner is citing Papyrus as disclosing providing sporting events participants with cameras, in general, since the Board explicitly ruled that Matthews fails to do so. Moreover, it is assumed that the Examiner is citing Papyrus as a reference and not "reminiscent from the real NASCAR" because "reminiscent of the real NASCAR" is clearly not a proper reference under 35 U.S.C. §§102 and 103. If the Applicant's assumptions are in error, the Examiner is respectfully requested to clarify the rejection on the record.

In any event, Papyrus fails to teach providing the participants of a sporting event with video cameras. Papyrus describes a video game. A video games is not a sporting event; it has no participants; and it has no video cameras. The system described in Papyrus involves a computer, video game code, and a video game player. These are not the features claimed by claims 1 and 14. Admittedly, the video game described by Papyrus may show a virtual, digital scene from the perspective of a driver. However, this is not what is claimed. The claim requires providing the participant of a sporting event with a camera. Papyrus does not do this.

In paragraph beginning on page 4 of the Action, the Examiner argues that "it would be obvious to one of ordinary skill in the art at the time of the invention was made to combine the

teachings of Matthews and [Papyrus] for permitting the display of multiple angles and views into the broadcasting of the live NASCAR racing event..." As noted above, claims 1 and 14 do not recite "displaying multiple angles and view." The point of this argument by the Examiner is unclear. Claims 1 and 14 require providing the participant of a sporting event with a camera. It appears that the Examiner is again attempting to argue that the Applicant's invention is a "mere change in camera angle," which was an issue discussed by the parties during the Appeal before the Board. The Board stated on page 4 of the Opinion: "We do not regard the claimed feature of each of the participants in a sporting event having a video camera provided to him or her or otherwise mounted on an actual participant as a mere change of camera angle to the extent argued by the examiner in the answer." As such, it is respectfully submitted that this argument by the Examiner is improper.

C. Papyrus is non-analogous art.

It is also respectfully submitted that Papyrus is non-analogous art with respect to the present invention, and thus, cannot be cited as a reference. The Federal Circuit has a two step test for analyzing whether prior art is analogous: (1) whether the art is from the same field of endeavor, and (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. See *In re Clay*, 23 USPQ2d 1058 (Fed. Cir. 1992). It is clear that a video game manual (Papyrus) is not within the Applicants' field of endeavor of distributing real time images of an actual sporting event. Furthermore, it is respectfully submitted that one skilled in the art (distributing real time images of an actual sporting event) would not look to a video game manual to solve any particular problem. If the rejection is maintained, the Examiner is respectfully requested to provide the problem solved by the video game manual that is particular to the Applicant. The Federal Circuit has stated: "[I]t is necessary to consider 'the reality of the circumstances',....in other words, common sense--- in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problems facing the inventor." *In re Oetiker*, 24 USPQ2d 1443 (Fed. Cir. 1992). It is

Appl. No. 09/452,952

Amendment dated February 6, 2004

Reply to Office Action of November 6, 2003

respectfully submitted that "common sense" dictates a finding that a person of ordinary skill in this art would not look to a video game manual to solve any problem.

Accordingly, it is respectfully submitted that claim 1 and 14 are allowable over the cited art. Claims 4-6, 10, 12 and 13 depend from claim 1 and are allowable as depending from an allowable claim.

Claim 4 further distinguishes over the cited references. In reference to claim 4, the Examiner acknowledges that Matthews does not teach the transmission of video information via the internet. Instead, the Examiner states that "it would have been obvious to one of ordinary skill in the art to use the Internet for conveniently viewing video information on a computer when one does not have a television available." The Examiner fails to provide a motivation for modifying the primary reference, Matthews, to result in the method recited by claim 4, and thus, fails to set forth a *prima facie* case of obviousness. Claim 4 recites that the information regarding the video images are transmitted by way of the internet. Even assuming that the Examiner is implicitly proposing "convenience" as a motivation to modify, the Examiner only proposes such a modification for viewing the images, not for transmitting the images. Accordingly, the rejection is improper and should not be withdrawn.

Claims 5, 6, 10 and 12 also further distinguish over the cited references. In reference to claims 5, 6, 10 and 12, the Examiner cites Matthews as disclosing that a "camera feed is generated for all participants ... and that the images selected by the viewer can be viewed on a display monitor screen." This is the only comment on the rejection of these claims made by the Examiner. And, as noted above, the Examiner states earlier in the Action that Matthews does not teach generating a camera feed for all participants.

Specifically, claim 5 recites that "a plurality of resulting images are viewed on a split television or monitor screen." Matthews fails to teach this feature, and furthermore, the Examiner fails to explain his reasoning of how it does teach this feature or can be modified to teach this

feature. Accordingly, the Examiner fails to set forth a *prima facie* case of obviousness. Claim 6 recites that a “split television or monitor screen shows a combination of video images from a camera associated with a participant of particular interest to the viewer, on the one hand, and a standard viewing program of the sporting event on the other.” Matthews fails to teach this feature, and furthermore, the Examiner fails to explain his reasoning of how it does teach this feature or can be modified to teach this feature. Accordingly, the Examiner fails to set forth a *prima facie* case of obviousness.

Claim 10 recites that “camera feed is generated for all participants in the sporting event.” Matthews fails to teach this feature. Although Fig. 2 of Matthews shows a plurality of cameras, it does not show a camera for each player, and thus, a camera feed is not generated for all participants. The Examiner fails to suggest a modification or a motivation to modify Matthews such that it does. Accordingly, the Examiner fails to set forth a *prima facie* case of obviousness.

In reference to the Examiner's general assertion that Matthews teaches a camera feed for all participants in the sporting event, the Examiner is respectfully requested to review Matthews. Figure 2 of Matthews shows cameras 42-48 corresponding to cardinal directions, but Matthews fails to show that there is a camera associated with each participant. For the baseball example in Matthews, it is pointed out that there are at least 10 players on the field at any time (8 position fielding players, 1 pitcher, and 1 batter). Matthews clearly shows 7 cameras which correspond to viewpoints, not player perspectives. The Examiner has failed to suggest a modification or motivation to modify Matthews such that a camera feed is generated for all participants in the sporting events. Accordingly, the Examiner has still failed to set forth a *prima facie* case of obviousness with respect to claim 10.

Claim 12 recites that “a viewer selects camera feed relating to a group of participants, wherein the group consists of participants of a particular team or participants that are predicted winners of the event.” Matthews fails to teach this feature, and furthermore, the Examiner fails to explain his reasoning of how it does teach this feature or can be modified to result in this feature. Accordingly, the Examiner fails to set forth a *prima facie* case of obviousness.

Appl. No. 09/452,952

Amendment dated February 6, 2004

Reply to Office Action of November 6, 2003

In each of the rejections of claims 5, 6, 10, and 12, the Examiner fails to even allege that Matthews teaches each of the features. The Examiner also fails to allege an explanation or motivation of how to modify Matthews to result in the features. The rejections are therefore facially improper and should be withdrawn.

Claims 2, 3, 7-9 and 11 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Matthews in view of the Papyrus and U.S. Patent No. 5,894,320 to Vancelette ("Vancelette").

Claims 2, 3, 7-9 and 11 depend from allowable claim 1. Vancelette fails to remedy the deficiency in the rejection of claim 1, discussed above. As such, claims 2, 3, 7-9 and 11 are allowable as depending from an allowable claim. These claim also have features that further define over the cited art.

Regarding claim 2, Applicant maintains that Vancelette fails to teach providing a field level audio feed and that the references are improperly combined.

Claims 7 and 8 relate to providing advertising content and information about the sporting event or the participant with the video information. The Examiner cites Vancelette for teaching this feature, and states "note the term 'marketing scheme' implies advertisement." The Examiner is taking this term out of context. The applicable portion of Vancelette states: "Additionally, the head end operator has the opportunity to group particular audio and video signals from the packetized data stream according to a tiered marketing scheme." In this context, "marketing scheme" refers to the grouping of programming, similar to a pay-per-view or premium movie channel system. In fact, the Examiner implicitly acknowledges such an interpretation by citing the same section of Vancelette as teaching the pay-per-view system of claim 3. In this context, "marketing scheme" has nothing to do with interspersing advertising into a broadcast and should not be cited as such.

In reference to claim 9, the present invention allows the provider of the video images to keep track of viewers' requests for a particular camera feed as a function of the participants of interest, and this in turn allows a more effective way to compensate participants and price advertising opportunities. The Examiner cites Vancelette as teaching "the use of a rating scheme for gathering

statistics on what most people watch and which camera feed is the most common (col. 7, lines 65-67).” Vancellette does indeed recite a “rating scheme.” However, the term in Vancelette is used in a different context from a ratings scheme that gathers viewer’s requests or statistics. The Examiner is impermissibly taking the term out of this context. Vancelette actually recites “The audio/video may also be grouped according to a rating scheme based on, e.g., adult content, violence or the like.” (Col. 7, lines 65-67). Thus, Vancelette is referring to a rating scheme used to rate the audio or video content of a movie, e.g. X, R, PG, PG-13, or G. This interpretation is supported by other statements in Vancelette. For example, the Examiner argues in his rejection of claim 3 that the portion immediately preceding above-cited statement references a scheme wherein the level of service access is determined by the level of fees paid, i.e., a “pay-per-view” system. Thus, Vancelette teaches that the “rating scheme” provides an alternate way of grouping programming such that a service is provided that will or will not show adult content, violence, etc. As another example, Vancelette cites the availability of the selection of plot lines, characters, and customized programming as an advantage of the described system. (see col. 5, lines 48-56) This option would be consistent with a system grouped by adult content or levels of violence. A service provider could provide an “R” version of a movie or a “PG” version of a movie. Therefore, it is clear that the “rating scheme” in Vancelette refers to a method of “rating” the adult or violence content of a particular group of programming, but has nothing to do with gauging and tracking viewer interest.

Further, there is no express or implied motivation provided in the prior art to achieve this aspect of the claimed invention as recited in claim 9. In Matthews, for example, viewers’ selections of portions of a playing field does not permit an effective means for allocating interest to particular participants since Matthews provides no means for determining who, among a plurality of participants, is present in the selected portion or for tabulating the amounts of time the viewers chose to watch respective participants.

Claim 11 recites that “the select group is determined by the number of viewer requests for feed cameras associated with participants.” As discussed above, the Applicant argues that the “ratings scheme” of Vancelette does not teach the feature for which it is cited for. Furthermore, even

Appl. No. 09/452,952

Amendment dated February 6, 2004

Reply to Office Action of November 6, 2003

if, assuming for the sake of argument, that "ratings scheme" can be interpreted as tracking viewers request, the Examiner fails to provide a teaching for the remaining portions of claim 11. The Examiner fails to allege that the "ratings scheme" of Vancelette can be used to generate a feed for a select group of participants which is determined by the number of viewer requests. In order to establish *prima facie* obviousness, each and every limitation of the claims must be taught or suggested by the prior art. See MPEP §§ 2143, 2143, 2143.03.

Moreover, the Examiner cites "Official Notice" as using a ratings scheme to "track ratings and views likes and dislikes." It is unclear how this Official Notice factors into the rejection. Clarification is respectfully requested, and the Applicant respectfully requests documentary evidence of facts supporting the Examiner's Official Notice. MPEP § 2144.03.

On a general note, the Applicant respectfully requests that the Examiner review the Opinion from the Board. The Board completely reversed the Examiner's previous rejections and remanded the case to the Examiner to "fully develop, if he or she chooses, a sound evidentiary basis [if the claims are again rejected]." It is respectfully submitted that the Examiner has failed to follow the Board's directive. Even if the Examiner does not allow the application, the Examiner is respectfully requested to develop a full and complete record of the basis of rejection. This application has been pending since 1999 without substantive claim amendments and without filing an Request for Continued Examination or a Continuation Application. In the face of a second, anticipated Appeal, the Applicant would appreciate a full and complete evidentiary basis so that the Board can decide the case, one way or another, without requiring a further remand and further delay.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply

Appl. No. 09/452,952

Amendment dated February 6, 2004

Reply to Office Action of November 6, 2003

has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

A Notice of Allowance with claims 1-14 is respectfully requested.

Respectfully submitted,

Date: 02/04/04



Chad C. Anderson
Registration No. 44,505
VENABLE
P.O. Box 34385
Washington, D.C. 20043-9998
Telephone: (202) 344-8257
Telefax: (202) 344-8300

520734